

Minutes
Otay Ranch POM Policy Committee Meeting
County Administration Center, Tower 7
1600 Pacific Highway
San Diego, CA 92101

November 20, 2008
2:00-5:00pm

Approved by the POM Policy Committee on 02/04/09.
Motion to approve by County of San Diego/SUPERVISOR GREG COX.
Motion seconded by City of Chula Vista/DEPUTY MAYOR JOHN MCCANN.
Motion Carried 2/0.

ATTENDEES:

City of Chula Vista

Jerry Rindone, Deputy Mayor
Scott Tulloch, Interim City Manager
Michael Shirey, Deputy City Attorney
Marisa Lundstedt, Principal Planner
Josie McNeeley, Associate Planner

County of San Diego

Chairman Greg Cox, 1st District Supervisor
Michael De La Rosa, District 1, Policy Advisor
Chandra Wallar, Deputy Chief Administrative Officer, Land Use & Env. Group (LUEG)
Megan Jones, LUEG Staff Officer
Renée Bahl, Director, Department of Parks and Recreation (DPR)
Mark Mead, County Counsel
LeAnn Carmichael, Planning Manager, Department of Planning and Land Use
Larry Duke, District Park Manager, DPR
Cheryl Goddard, Land Use Environmental Planner, DPR

Public

Amber Himes, Fish and Wildlife Services
Libby Lucas, CA Department of Fish and Games
Michael Beck, Endangered Habitats League
Tom Tomlinson, McMillin Companies
Rikki Schroeder, RMA for McMillian Companies
Curt Noland, Otay Land Company
Kim Kilkenny, Otay Ranch Company
Ranie Hunter, Otay Ranch Company
Rob Cameron, Otay Ranch Company
Sean Kilkenny, Otay Ranch Company

(Attachment A – Sign-in Sheet)

Agenda Item Numbers noted in parentheses

1. Call to Order

(I.) Meeting called to order at 2:08 pm by County of San Diego/CHAIRMAN GREG COX.

- 2. (II.)** City of Chula Vista/DEPUTY MAYOR JERRY RINDONE motioned to approve the meeting minutes. Motion seconded by CHAIRMAN COX. Motion carried.

3. Public Comment on items not related to Agenda

(III.) CHAIRMAN COX opened and closed with no comment.

4. Status Report

(IV.A.1.a) County of San Diego/LEANN CARMICHAEL reported on the Board Policy I-109 Otay Ranch Implementation Document Amendment (*initiated by the County of San Diego*) - Adoption of Phase 2 RMP and Preserve Boundary Modifications - CARMICHAEL stated that the County is working with City staff to discuss policy issues that will be placed in the update. The Phase 2 RMP update is expected to be completed next year.

(IV.A.1.b) CARMICHAEL reported that the Applicant for Village 13, the Otay Ranch Company, is working with County staff on technical studies and project design issues. The applicant's due date to submit is in March 2009.

(IV.A.1.c) CARMICHAEL reported that the County's Wolf Canyon IOD Vacation/Replacement application is pending on reaching resolution on future infrastructure.

(IV.A.2.2) City of Chula Vista/JOSIE MCNEELEY reported that the City is in line with the County's Wolf Canyon IOD Vacation/Replacement application. The City will coordinate with County staff as hearing dates are scheduled after the issue of future infrastructure is resolved.

(IV.B.1) County of San Diego/CHERYL GODDARD reported on the status of pending conveyances. GODDARD stated that there are approximately 1,500 acres that are pending conveyance due to outstanding issues. Outstanding issues include future infrastructure, access issues, and a vacation/replacement process.

GODDARD reported that there are approximately 114 acres that are pending conveyance due to the issue of future infrastructure. These lands include 41 acres offered by Brookfield Shea in the Salt Creek area and 73

acres offered by Otay Ranch Company in Wolf Canyon. Pending resolution on the issue of future infrastructure, POM Staff anticipates these lands to be accepted and transferred in fee title in 2009.

GODDARD reported that there are 109 acres that are pending conveyance due to the issue of future infrastructure and the property has a Wildlife Agencies' restoration requirement. The property is in year 5 of a 5 year success criteria for wetland restoration. POM Staff anticipates this land to be transferred in fee title in 2010.

GODDARD reported that there are 405 acres that are pending conveyance due to access issues in which the developer, Otay Ranch Company, is in the process of providing access easements to the property. POM Staff anticipates these lands to be transferred in fee title in 2009.

GODDARD reported that there are 350 acres that are pending conveyance due to access issues in which POM Staff is working with the developers, Otay Ranch Company and McMillin Companies, to obtain legal access to the proposed conveyance lands. POM Staff is working with the City of San Diego Water Department and the California Department of Fish and Game office to discuss legal access options. POM Staff anticipates these lands to be transferred in fee title in 2009.

GODDARD reported that there are 558 acres that are pending conveyance due to a vacation and replacement process. These lands are located directly north of Village 13. These lands will not be accepted until the Village 13 development and Preserve footprint are considered and approved by the County Board of Supervisors. POM Staff anticipates these lands to be transferred in fee title in 2010.

GODDARD summarized the pending conveyances. There are 1,536 acres that are pending conveyance. 869 acres are anticipated to be transferred in fee title in 2009. Of the 869 acres, 114 acres are pending due to future infrastructure issues alone. 667 acres are anticipated to be transferred in fee title in 2010.

(IV.B.2) MCNEELEY reported on the meeting held with POM Staff and Wildlife Agencies' Staff. The County and the City have served as the POM over the last 12 years. Pursuant to the Otay Ranch Joint Powers Agreement (JPA), under Section 2, the functions and role of the POM are to be re-evaluated every 5 years. The City has initiated discussions with the County to determine what the future approach of the POM should be, i.e. what is the best option for the management and monitoring of the Preserve. POM Staff held a meeting on November 5th with the Wildlife Agencies including the U.S. Fish and Wildlife Services, CA Department of Fish, and Game, and the San Diego National Wildlife Refuge. This allowed POM Staff to obtain input from the Wildlife Agencies on how to

better manage the Preserve. POM Staff has looked at options including the National Wildlife Refuge taking over as POM for those lands east of Otay Lakes and within the Refuge boundary, assigning a third-party POM who would assume management and monitoring responsibilities of the Preserve, and the possibility of splitting the Preserve responsibilities so that the City is responsible for managing and monitoring those Preserve lands within the City's jurisdiction and the County will be responsible for the Preserve lands within the unincorporated County. As a result of the meeting, staff discovered there would be some hurdles that will be faced with each option, primarily due to funding and how money would be split. Staff also discussed MSCP obligations with the Wildlife Agencies. POM Staff will continue to explore these options and report back to the Preserve Management Team (PMT) with pros and cons of each and hopefully come back to the Policy Committee with a recommendation.

CHAIRMAN COX asked for clarification regarding if there was previously a willingness by the Wildlife Agencies to take on management and monitoring of some of the Otay Ranch Preserve lands without cost to Otay Ranch property owners.

MCNEELEY stated yes. The Wildlife Agencies agreed to take over lands east of the lakes within the Refuge without Otay Ranch funds and this agreement is documented in the Baldwin Agreement.

CHAIRMAN COX asked why the Wildlife Agencies aren't honoring the agreement.

MCNEELEY stated that the Wildlife Agencies are considering taking over these lands however they will need direction from the State and Federal authorities to do so. Looking at the options it is a matter of State and Federal funding. If the Refuge takes over the lands they must also assume all the costs to manage and monitor these lands as they would with any of their other land. The Refuge has not closed the door on this option.

DEPUTY MAYOR RINDONE stated that POM Staff will work on the pros and cons of each option to be presented back to the PMT and Policy Committee. Since this is DEPUTY MAYOR RINDONE'S last POM Policy Committee due to being termed out he stated he wanted to voice his opinion for the record. DEPUTY MAYOR RINDONE stated that bringing in a third-party to assume POM responsibilities will create more hurdles.

CHAIRMAN COX motioned to direct POM Staff to come back to the Policy Committee at its next meeting and present the pros/cons, strengths/weaknesses, and risks related to each POM alternative. CHAIRMAN COX requested that a copy of the Baldwin Agreement be provided as a handout.

DEPUTY MAYOR RINDONE seconded the motion. Motion passed.

5. Policy Decision Issue

(V.A.) GODDARD reported on the proposed Dispute Resolution Process and provided background information on this item. The JPA requires a unanimous vote by the Policy Committee to set policies related to the POM. The JPA does not have a process in place to resolve issues in which POM Staff, the PMT, or the Policy Committee is unable to reach consensus. The Policy Committee directed staff to draft a dispute resolution process to include non-binding mediation to be presented back to the Policy Committee.

GODDARD stated that the dispute resolution proposal includes that the County and the City, as the POM, must agree to a neutral third party mediator; each party pays for ½ of the cost of the mediation session; the results of the outcome are non-binding; the PMT or Policy Committee may direct staff to participate in mediation; the referring body whether it be the PMT or Policy Committee recommend a maximum amount to be spent per specific issue; and the and if consensus still cannot be reached, the Policy Committee may direct the PMT is to recommend alternative action. The alternative actions include participate in additional mediation sessions; maintain status quo; refer the matter to the Otay Ranch Sub-Committee as established by County Board of Supervisors Policy I-109; Refer the matter to the legislative bodies of the City and the County for direction; take other action as permitted by the JPA; or any other legally permissible action which the Policy Committee may deem appropriate.

GODDARD stated that the dispute resolution process may be implemented by amending the JPA which shall require Board and City Council action or the Policy Committee may adopt and implement the process as a POM Policy.

GODDARD stated that POM Staff's recommendation is to approve the POM Dispute Resolution Process and implement as a POM Policy.

CHAIRMAN COX motioned to approve the POM Dispute Resolution Process and implement as a POM Policy.

DEPUTY MAYOR RINDONE seconded the motion. Motion passed.

City of Chula Vista/SCOTT TULLOCH asked to revisit the item of an alternative POM. TULLOCH asked DEPUTY MAYOR RINDONE to expand his thoughts on why he believed a third-party POM would create additional hurdles.

DEPUTY MAYOR RINDONE stated that bringing in a third-party adds to the complexity of the POM. If there is a dispute and the dispute resolution process includes non-binding outcomes then you have additional

complexities. All the benefits and disadvantages of each option should be explored.

U.S. FISH AND WILDLIFE SERVICES/AMBER HIMES asked if the Policy Committee had any thoughts on the other two alternatives.

DEPUTY MAYOR RINDONE stated not at this time. POM Staff will provide the background and pros and cons of each alternative. The future of the POM and how it is managed is important and decisions impacting its future should not be rushed decisions.

CHAIRMAN COX stated he is interested in hearing POM Staff's recommendations and their presentation on the pros/cons and strengths/weaknesses of each alternative.

DEPUTY MAYOR RINDONE stated that his term officially ends in December and that he would not be the City's representative on the POM Policy Committee for the next meeting but that he has told the City's Interim City Manager that he could assist in the transition stage as the City appoints a new representative.

(V.B.) MCNEELEY reported on the status of the future infrastructure issue. At the last Policy Committee meeting, the Policy Committee was not able to reach resolution on this item and directed POM Staff to continue discussions on future infrastructure. At that time, the City had new assigned legal staff, JILL MALAND. MALAND has had an opportunity to get up to speed on this item and has continued discussions with County Counsel. Prior to the last PMT meeting, the City's Attorney provided a letter to County Counsel outlining the City's position on future infrastructure. It included new citations. Mediation was discussed at the last PMT meeting. The letter sent to the County two weeks ago included a list of possible mediators. The County narrowed the list down to four mediators and the City is completing further refinement on the list. City anticipates scheduling the mediation within the next 2-3 months.

CHAIRMAN COX asked if mediation could occur before the next Policy Committee meeting.

MCNEELEY stated that POM Staff will try to schedule the meeting before the next Policy Committee meeting.

GODDARD clarified the timeline regarding mediation and future infrastructure. GODDARD stated that POM Staff anticipates mediation to occur within the next 2-3 months. POM Staff will need to present the results of the mediation and any new recommendations on future infrastructure to the PMT and then the Policy Committee. Future infrastructure will be a

couple months down the line before the Policy Committee is presented with results of the mediation and any new recommendations, if any.

CHAIRMAN COX asked if there were any projects that would be impacted by this timeline.

Audience members from the public stated that there are no issues with the timeline.

6. Finance

(VI.A.) MCNEELEY summarized the Fiscal Year 2007-2008 budget. At the last Policy Committee meeting, staff provided estimates on the FY 2007-2008 status. Today's Powerpoint slide shows actual final totals. The Fiscal Year 2007-2008 budget was \$300,000. The City went out to levy for \$382,623. The actual revenue collected totaled \$362,206 and the total expenditures totaled \$302,867. Administrative costs for Fiscal Year 2007-2008 exceeded the estimated budget by approximately \$13,000. This was due to policy issues that were addressed this year. Staff spent additional time researching future infrastructure issues and Chula Vista's finance staff completed research and provided background on the CFD 97-2. The Preserve Operations and Maintenance actual totals were approximately \$10,000 less than what was budgeted. The money was used to pay for the seasonal ranger, minor equipment and hand tools, signs, and fence installation. The Monitoring total was \$110,000. The \$110,000 is encumbered in a contract. The consultant was paid \$50,000 last fiscal year and the remaining \$60,000 has been rolled over to the Fiscal Year 2008-2009 budget. The \$60,000 was levied during Fiscal Year 2007-2008. In summary, staff budgeted \$300,000 for FY 2007-2008 and the budget was exceeded by nearly \$3,000.

MCNEELEY stated that the beginning fund balance for Fiscal Year 2008-2009 was \$378,274. The estimated budget for this fiscal year is \$505,000. The City went out to levy for \$510,339.

POM Staff budgeted for \$118,000 for administrative costs. Staff tried to keep administrative costs to less than 25% of the budget so that staff could focus on management and monitoring on the ground. Preserve operation and maintenance was budgeted at \$47,000. Resource monitoring was budgeted at \$165,000. This includes surveys that are currently under the POM's ownership and any ongoing surveys that are necessary. The budget also includes \$175,000 for baseline surveys on any lands that the POM accepts this fiscal year. At this point, the POM is not likely to accept any new lands due to policy issues. Staff may look at using this money for adaptive management projects or other type of monitoring. A Working Group meeting will be scheduled to collect their input on what the priorities should be for the Preserve. There is a line item on the Fiscal Year 2008-2009 budget for \$60,000. This money was levied and collected in the 2007-

2008 Fiscal Year and is encumbered in a contract to complete baseline surveys on POM lands.

CHAIRMAN COX asked what the maximum amount the City could have levied for at the beginning of the fiscal year.

MCNEELEY stated that the City went out to levy for \$510,339 and that was the maximum amount they could levy for.

CHAIRMAN COX if that amount is being assessed.

MCNEELEY stated yes and the first collection is due in December. MCNEELEY stated once the numbers from the first collection are accounted for, staff can provide an update on the delinquency rate.

CHAIRMAN COX stated that the County participates in a program authorized by the State called the Teeter Program. The County pays for all outstanding property taxes for each jurisdiction then the County goes after the owners who are delinquent in their payments. The County ultimately makes money on this program because of the penalty fees that are also collected as a result of the payments being delinquent. There was obviously a delinquency issue with last year's fiscal budget as the City levied for \$382,623 and the City collected \$362,206 with an approximately \$20,000 difference.

MCNEELEY stated that the delinquency rate for last fiscal year was 8.6%.

CHAIRMAN COX stated that 8.6% would be more than the \$20,000 unless some monies were collected after the due date.

MCNEELEY stated that the revenue collected may include interest. City Staff will confirm with the City's finance staff.

CHAIRMAN COX asked if the City had the ability to front-load the delinquency payments like the County.

County of San Diego/MARK MEAD stated that is what the Auditor and Controller's office reported. Community Facility Districts do not qualify under the Teeter Program.

CHAIRMAN COX asked when the outstanding payments would be paid.

MCNEELEY stated that delinquent payments are paid when the home is purchased by a new owner.

CHAIRMAN COX asked if the delinquent payments become a lien on the home.

MCNEELEY stated yes.

DEPUTY MAYOR RINDONE asked staff to use the term “restricted reserve” versus “reserve” so that it is not included in the City’s General Fund Reserve. This is done with MTS and TransNet reserve funds.

County of San Diego/CHANDRA WALLAR stated that the PMT will keep a close eye on the December property tax collection. If there is a shortfall, the PMT may recommend that adjustments be made to the budget.

CHAIRMAN COX stated that the good news is that it looks like the reserves at the beginning of the year were at about 60% or so of the budget. Having this much of a magnitude in budget it’s probably normal to have at least 6 months worth of the budget in the reserve. This will give us the opportunity to fine tune the budget if there is a shortfall in the budget.

WALLAR stated that the PMT is very interested in seeing the 5-year strategic plan for spending so we can see trends if any. It will provide an opportunity for the PMT and Policy Committee to plan as a strategic standpoint.

(VI.B.) MCNEELEY stated that the PMT was very interested in the 5-year budget forecast. POM Staff is preparing a 5-year forecast table illustrating the projected POM expenditures and estimated CFD levy amounts through FY2012/2013. The 5-year forecast will also consider input from the Working Group. We anticipate discussing monitoring priorities and the cost estimates for such monitoring. The Working Group meeting will be scheduled for early December. It has been made clear that POM staff needs to generate this table in order to allow the PMT and the Policy Committee a chance to review the budget prior to the City taking it to the City Council. POM Staff is working on the table and will need to come to agreement regarding the assumptions made to create the budget.

(VI.C.) MCNEELEY stated that through the processing of last year’s budget City Finance Staff has come up with dates to submit budget numbers to them to be included in City Council budget workshops and hearings. City Finance Staff has identified potential dates in which POM Staff is to submit budget numbers to them. These dates are February 6th to submit the Draft POM Budget; February 20th to submit the Final POM Budget; and April 15th to submit any anticipated Rollovers.

CHAIRMAN COX made a motion to direct POM Staff to bring back next Fiscal Year’s budget and a 5-year budget forecast to the Policy Committee before a levy amount is introduced to the City Council.

DEPUTY MAYOR RINDONE seconded the motion. Motion passed.

(VI.D) GODDARD stated that the County, on behalf of the POM, applied for a \$125,000 TransNet Environmental Mitigation Program Grant from SANDAG. This money is proposed to be used for Cactus wren habitat restoration efforts in Salt Creek. On September 26th, the SANDAG Board of Directors authorized SANDAG staff to begin the process of entering into a contract with the County. SANDAG staff indicated that the County will receive a copy of the contract within 3-4 weeks.

CHAIRMAN COX clarified that this grant amount does not show up in the budget but it will obviously be used to benefit the Preserve.

GODDARD stated yes.

WALLAR noted that POM Staff, the Wildlife Agencies, and are partners in NGOs played a role in making this grant successful.

CHAIRMAN COX congratulated City and County staff for making the grant happen.

7. Next Policy Committee Meeting

(VIII.) CHAIRMAN COX stated that it looks like POM Staff is proposing two possible dates for the next Policy Committee meeting, Wednesday, January 21st or Friday, January 23rd.

TULLOCH corrected the dates to be Tuesday, January 20th or Friday, January 23rd.

BAHL stated that since the City, at this time, does not have a new Policy Committee member assigned, the two dates are based on CHAIRMAN COX'S availability for late January. The City has agreed to help facilitate the scheduling of the next Policy Committee meeting so that one of those two dates works.

CHAIRMAN COX asked if a motion is needed.

BAHL stated no. Both dates will be held on CHAIRMAN COX'S calendar until confirmation is received from the City.

TULLOCH stated that the new Councilmembers are to take office on December 2nd. It is Mayor Cox's intention to designate a new Policy Committee member for the City by December 9th or 16th. As soon as a new member is designated, City staff will work to confirm a date.

CHAIRMAN COX stated that the next Policy Committee meeting will either be on Tuesday, January 20th or Friday, January 23rd. It will likely be held from 2-5pm at the City of Chula Vista Lippett Public Works Building.

8. Adjournment

(IX.) CHAIRMAN COX asked if there were any questions or comments from the public. Hearing none, the meeting was adjourned at 2:45pm.

ATTACHMENT A

MEETING SIGN-IN SHEET

Project: Otay Ranch Preserve Owner/Manager (POM)
Policy Committee Meeting

Meeting Date/Time: November 20, 2008
2:00 – 5:00 pm

Place/Room: County Administration Center, Tower 7
1600 Pacific Highway, San Diego, CA 92101

[illegible]